

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-4387-2020

Date of decision:-31.1.2020

Neelam Batra

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Vikram Singh, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

In a criminal complaint under Sections 499/500 IPC filed by complainant Supriya Ranjan against accused Neelam Batra, Sahil Batra and Monika Batra pending in the Court of Judicial Magistrate Ist Class, Panipat, during the course of cross-examination of CW5 Supriya Batra many question were disallowed being irrelevant.

The accused are aggrieved by such action of the Presiding Officer disallowing questions being asked in the cross-examination and order passed by learned Magistrate in that regard dated 12.12.2019. For ready reference the order is being reproduced as under:

CW5 Supriya Batra is present and her cross-examination concluded. CW4 Jatin Batra is present and partly cross-examined., His remaining cross-examination is

treated as nil at 05:00 P.M. in pursuance of order dated 13.11.2019, whereby it was clearly directed that no further opportunity would be granted to the accused for concluding cross-examination of the aforesaid witnesses. The said direction had been emphatically given to learned defence counsel on 13.11.2019 in the Court itself. However, despite the aforesaid clear direction also incorporated in the last zimni order, learned counsel for accused Neelam Batra appeared before the court at 11:50 AM, when both the witnesses were also present in the Court. Thereupon, the undersigned drew his attention towards the same (direction/order dated 13.11.2019) and asked him to begin with the cross-examination of the witnesses present in the court forthwith. However, learned counsel refused to do so on the pretext that he was busy in another court and stated that he would come only after lunch. Thereafter, learned counsel appeared after 02:00 PM and began cross-examination of the two witnesses.

Vide a separately recorded statement, learned counsel for the complainant withdrew his application under Section 311 Cr.P.C. filed on 12.9.2019 and closed pre-charge evidence. To come up on 28.2.2020 for arguments on charge.

I have heard learned counsel for the petitioner besides going through the record.

A perusal of this order and cross-examination of CW5

Supriya Ranjan goes to show that the counsel appearing on behalf of the accused had been indulging in dilatory tactics. Though many of the questions asked have been disallowed being irrelevant but no fault can be found with such approach of the trial Magistrate. Section 148 of the Evidence Act clearly provides that the Court is to decide when question shall be asked and when witness compelled to answer. The Court is to allow relevant questions only. The party cross-examining a witness cannot be given unbridled opportunity to ask any question it feels like irrespective of its relevance. The power lies with the Judge, which question is relevant and which question is not in view of the facts and circumstances of the case. In this case the Court has rightly exercised its power in disallowing irrelevant questions, which had no nexus with the controversy in question. No miscarriage of justice comes to have taken place. No ground is made out for interference in the impugned order.

The petition being without merit stands dismissed accordingly.

31.1.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No